

# Holland & Knight

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*Via ECF*

Honorable Valerie E. Caproni  
United States District Judge  
Thurgood Marshall United States Courthouse  
40 Foley Square, Room 240  
New York, New York 10007

Re: *UPT Pool Ltd. v. Dynamic Oil Trading (Singapore) Pte. Ltd., et al.*,  
U.S.D.C., S.D.N.Y., Docket No. 14 Civ. 9262 (VEC)

Dear Judge Caproni:

We write on behalf of Plaintiff UPT Pool Ltd. ("UPT Pool") in the above-captioned matter and are joined by Defendants O.W. Bunker USA Inc., O.W. Bunker North America Inc., O.W. Bunker Holding North America Inc. (collectively, the "OW Debtors"), Harley Marine Services, Inc. ("Harley Marine") and ING Bank N.V. ("ING")<sup>1</sup> in response to this Court's Notice of Pretrial Conference dated January 5, 2015 (ECF Doc. #22), to request an adjournment of the Initial Pretrial Conference currently scheduled for January 23, 2015 (with joint letter due January 16, 2015) for the reasons outlined below.

As this Court is aware, presently thirteen interpleader actions<sup>2</sup> related to the O.W. Bunker bankruptcy have been filed in front of Your Honor and are subject to several omnibus Orders, briefing schedules and hearing dates. Additionally, by means of several letters, the interpleader parties have advised the Court of proceedings before the U.S. Bankruptcy Court for the District of Connecticut ("Connecticut Bankruptcy Court") and the joint application of the Official Committee of Unsecured Creditors (the "Committee") and the OW Debtors for transfer of venue to the U.S. Bankruptcy Court for the Southern District of New York. As a result, by Order dated January 6, 2015 Your Honor held previously ordered briefing on the issue of transfer of venue of the interpleader actions in abeyance (ECF Doc. #23).

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<sup>1</sup> Plaintiff UPT Pool notes that it has received correspondence from the provisional liquidators of Defendant Dynamic Oil Trading (Singapore) Pte Ltd. ("DOT") who states that DOT presently has no claim against UPT Pool for the subject fuel delivery. Plaintiff and DOT are currently discussing the voluntary dismissal of DOT from this action. Nonetheless, DOT was notified of this Court's Notice of Pretrial Conference and the present letter to Your Honor.

<sup>2</sup> A fourteenth action was filed on January 12, 2015 by plaintiff Hapag-Lloyd Aktiengesellschaft, Case No. 15-cv-190, which may or may not have yet been accepted as related by Your Honor.

Honorable Valerie E. Caproni  
United States District Judge  
January 15, 2015  
Page 2

During the January 7 hearing in Connecticut Bankruptcy Court, Judge Schiff granted NuStar Energy Services, Inc.'s motion for continuance on the application for transfer of venue. Judge Schiff has set a one-day hearing for February 18, 2015 with expedited discovery to be completed by January 21, 2015.

Additionally, pursuant to Your Honor's order of December 31, 2014 (ECF Doc. #20), briefing on the Court's jurisdiction over vessels located outside this District is scheduled for January 14, 2015 with responsive briefing due on February 4, 2015.

In light of these matters and this Court's previous handling of the interpleader actions collectively to address common issues of fact and law, the parties respectfully request that the Court adjourn the Initial Pretrial Conference currently scheduled for January 23, 2015 (with joint letter due January 16, 2015) until such time as the threshold issues presented by the hearing in Connecticut Bankruptcy Court and by the foregoing briefing concerning the Court's jurisdiction have been decided.

We thank the Court for its attention to these matters.

Respectfully submitted,



James H. Power

cc: Via ECF and/or E-mail to all counsel listed below

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